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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,117	08/22/2006	Anders Sundgren	4448-44	1250
23117 7590 11/13/2009 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER MC'CARRY JR, ROBERT J				
ART UNIT 3617		PAPER NUMBER		
MAIL DATE 11/13/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/583,117

**Applicant(s)**

SUNDGREN, ANDERS

**Examiner**

ROBERT J. MCCARRY JR

**Art Unit**

3617

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 32-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-36 and 43-63 is/are rejected.
- 7) ☒ Claim(s) 37-42 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/GS/US)  
Paper No(s)/Mail Date 8/26/09
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The Information Disclosure Statement received on August 26, 2009 has been reviewed by the Examiner. The "Steel and Aluminum; comparison of material properties" has not been accepted or reviewed as there is no English translation included with the citation.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 32-36 and 43-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hung (US 4,889,281).

Hung discloses a compound guide rail for guiding interaction with a wheel of a unit traveling along the rail. The guide rail is comprised of an outer rail 1 made of an aluminum alloy and further shaped to exhibit a C or U shaped open channel. The channel extends in the longitudinal direction of the rail. The outer rail 1 is mounted onto an iron base rail 2. The outer rail 1 has outwardly and upwardly extending tabs 11, extending from the web of the outer rail and act to guide the wheels traveling along the rail. The outer rail 1 also has angled tabs extending downward from the web and inward from the corner under the web of the rail. These angled tabs aid in mounting the outer rail to the lower base rail 2. The outer rail is anchored to the base rail by screws 22,

thread through holes 13 on the outer rail and extending into the base rail through holes 21.

Hung discloses the compound guide rail as described above. However, Hung does not specifically state the yield point of the outer rail or base rail. As the outer rail is constructed of aluminum and the base rail is constructed of iron. It is well known to one of ordinary skill in the art, and supported by the Machinery's Handbook 25<sup>th</sup> edition (1996) p. 193, that aluminum has a yield point exceeding the yield point of iron. It would have been obvious to one of ordinary skill in the art to come to the expected result that the outer aluminum rail would have a yield point exceeding the yield point of the iron base rail.

Hung discloses the rail assembly as described above. However, Hung does not distinctly show the two rails to be glued together. It would have been obvious to one of ordinary skill in the art to have understood that conductive glue can be used as a functional equivalent to the mechanical screw connections in regards to adhering and attaching two like parts together. This functional equivalent can be substituted with the expected result that a conductive glue can be applied by any worker and would reduce the number of parts and tools needed to attach the two parts. Adhesive glue would also reduce the time needed to attach the two rail components.

Regarding claims 46 and 47. Hung discloses the structure as described above. However, Hung does not specifically state the thickness or yield limit of the outer rail layer. It would have been an obvious design choice to one of ordinary skill in the art to have made the thickness of the outer rail between 2 and 10 mm with the expected result

of allowing for larger rails to more readily support larger vehicles in various environments. It also would have been an obvious design choice to one of ordinary skill in the art to have made the yield limit in the range of 900-1300 Mpa with the expected result of providing increased support to various sized vehicles in various environments and temperature changes.

Regarding claims 52-63 drawn to the method of manufacturing a guide rail. It would have been obvious to one of ordinary skill in the art to come to the expected result that since Hung discloses the same apparatus assembly, the same method would be used to construct the apparatus.

Regarding claims 43-45 and 48-50. These claims recite a method limitation in an apparatus claims. These method limitations have not been given patentable weight. See MPEP § 2113.

#### ***Allowable Subject Matter***

Claims 37-42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT J. MCCARRY JR whose telephone number is (571)272-6683. The examiner can normally be reached on Monday through Friday 7:00am to 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. Joseph Morano/  
Supervisory Patent Examiner, Art Unit 3617

/R. J. McCarry Jr./  
Examiner, Art Unit 3617

RJM  
October 30, 2009